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2010 MAY 28 PM 1 44

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

ZACK CAINE HERRELL,

Plaintiff,

vs.

THOMAS W. LYNCH and SGT.
NEWTON,

Defendants.

No. CV 08-62-GF-SEH

ORDER

On April 21, 2010, United States Magistrate Judge Keith Strong entered Findings and Recommendations¹ in this matter. Plaintiff did not file objections. No review is required of proposed findings and recommendations to which no objection is made. Thomas v. Arn, 474 U.S. 140, 149-152 (1986). However, this Court will review Judge Strong's Findings and Recommendations for clear error.

¹ Docket No. 28.

Upon review, I find no clear error in Judge Strong's Findings and Recommendations and adopt them in full.

ORDERED:

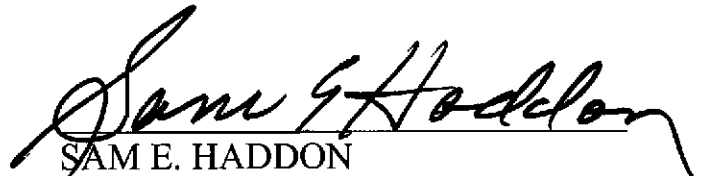
1. Defendants Lynch and Newton's Motion for Summary Judgment² is GRANTED.

2. The docket shall reflect the filing of this action constitutes one strike under 28 U.S.C. § 1915(g).

3. A certificate of appealability is DENIED. Any appeal from this disposition will not be taken in good faith as the claims lack merit.

The Clerk is directed to enter judgment accordingly.

DATED this 28th day of May, 2010.


SAM E. HADDON
United States District Judge

² Docket No. 24.